California MEDICINE

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EDITORIAL

Physicians and Lawyers

ON ANOTHER PAGE of this issue appears an article prepared jointly by the chairmen of liaison committees of the California Medical Association and the State Bar of California. This item outlines the agreement which has been reached by the respective committees of the two organizations on the single subject of expert medical witness for medical malpractice plaintiffs.

While some members of the medical profession—and doubtless many of the legal profession—may raise their eyebrows over the advent of such an agreement, there appears ample good reason why this step has been taken.

Over the years physicians and lawyers have met in the courts of the land. Where physicians appear as witnesses on opposite sides of a case and present testimony at variance with each other's, they may be pictured by attorneys, judges and jurors as something less than upright men pursuing the same scientific course. At times the entire medical profession is castigated as being composed of men who would take sides to the exclusion of their scientific training.

In many such suits physicians have found themselves badgered by opposing counsel, sometimes faced with the reading of sections taken out of context from medical books. Such situations have been embarrassing to the physician witness and derogatory to the whole profession of medicine, to say nothing of the effect on the course of justice.

The very appearance of these situations in our courts has caused many of the meditative minds in both professions to seek an avenue of approach to a problem which pits one professional group against another, to the benefit of neither, to the detriment of both and the disservice of equity. A baiting attorney, even though using his tactics simply as a technique, must leave the impression of a bully on at least some jurors and courtroom observers. A faltering physician, even though medically sound in his testimony, can easily create the impression that medicine has not progressed to a very high scientific level.

That some progress has been made in working for something better has become apparent in recent years. In several states and in numerous counties throughout the country medical-legal groups have sat down together for frank discussions of their joint problems and have come up with some of the answers.

The result of these joint sessions in many places has been the adoption of an interprofessional code of conduct. Such items as the conduct of both lawyer and physician while the latter is on a witness stand have been spelled out in some of these codes. The subpoenaing of physicians' records; the calling of physicians as expert but unwilling witnesses for purposes of picking their brains; the relationship of physician and attorney on both sides of a case—these and other details have been analyzed and reduced to rules of conduct which both professional groups understand and accept.

The adoption of these codes represents a healthy and progressive movement on the part of both groups. It is certain that much misunderstanding and hard feelings will be eliminated and the dignity of both enhanced by these agreements.

More recently there has come another indication of better and closer interprofessional cooperation. In one large state a program for the naming of physician experts to give impartial medical testimony in personal injury cases has been developed. These experts are chosen from panels by the judges

and their main function is to give impartial testimony without any thought of bias for or against a plaintiff or defendant. While this process has not spread very wide to date, it is being carefully observed in many other areas. If it produces the results hoped for, the bickering between expert witnesses in highly contested cases may be eliminated; in fact, many cases may be settled before trial if the impartial medical testimony will not support the legal claims made.

The newest move in California comes as a follow-up of these earlier evidences of collaboration between the two professions. The maintenance of panels of experts for the use of plaintiffs' attorneys in professional liability cases should go a long way toward dispelling the impression which has been voiced by some lawyers and judges that a "conspiracy of silence" exists in the medical profession when a medical malpractice case comes to court. Where panels of medical experts are established to work under the guidance of both the medical and the bar associations, there would be little to sustain this sort of reasoning. The program has been agreed upon by both parties under a set of rules which will protect all parties against abuses and still make expert testimony available to the plaintiff.

Where large county medical societies are involved, it is expected that the county society will supervise the program through its own staff. In smaller counties, area panels will be developed to work with the cooperation of the district councilor of the California Medical Association. In either event, the medical societies will be advised on all cases and adequate administrative controls will be maintained. [Details are given in the article appearing on page 173 of this issue.]

While only a limited experience has been had in this program to date, it appears obvious that the plan will be put into effect statewide at the earliest possible date and that the medical and legal professions can take another step forward on the path to mutual respect and understanding. But above all, the public will be presented a service which could not be purchased for money but can be extended with good will by the two large professions involved. This is at once good citizenship and good public relations at its very best.

Editorial Comment . . .

Why a Tumor Registry?

THE QUESTION is often asked, "Why should a hospital have a tumor registry?" The administrator questions the cost and asks how such a charge can be justified in terms of service to all the patients cared for in the hospital. The staff member is concerned in what he receives in return for the time spent in obtaining follow-up information since the family physician, to whom the patient is returned for further care, resents the "specialist" periodically asking for information relative to the condition of the patient.

One answer might be that, cancer being a multiplicity of diseases, every method that may provide any information should be developed. There are those who state that the collection of such data for statistical analysis is time consuming and futile, that statistics never cured a case, that all the patients die sooner or later in spite of treatment and perhaps because of treatment. Others, the optimistic ones, say that cancer can be cured in 85 per cent of cases if treated early enough. Between these two groups are the careful scientific members of the profession who are interested in the results of their therapy not only at the time of discharge of the patient from the hospital but in the years that the patient lives. It is for this group that a cancer registry becomes a valuable tool in treatment and in teaching.

Few persons are endowed with "total recall" memory, and physicians are not especially favored. They, like others, are likely to remember their successes and forget their failures and particularly the details of the cases with the passage of time. Hence the need of accurate recording of the facts as they develop. Such a clinical record becomes quite bulky, and to review all such records for information as to age, sex, site, type, diagnosis and therapy (or reason for no therapy) is time-consuming.

A tumor registry is designed to expedite and make attractive such reviews. Pertinent information is abstracted and filed on all patients with cancer seen in the hospital departments. For the convenience of the specialists the abstracts may be filed according to site of lesion. The follow-up informa-